CAMPAIGN FINANCE & REPORTING TRAINING

Calendar Year: 2020

Treasurers for Primarily Formed and General Purpose Recipient Committees



WWW.SFETHICS.ORG

Welcome to the San Francisco Ethics Commission's 2020 training for general purpose and primarily-formed committee treasurers. This training discusses general campaign finance rules, and the role and responsibilities of a treasurer. Candidates and Treasures for committees controlled by candidates running for City elective office, must take the <u>Campaign Finance Training for Candidates & Treasurers</u>.

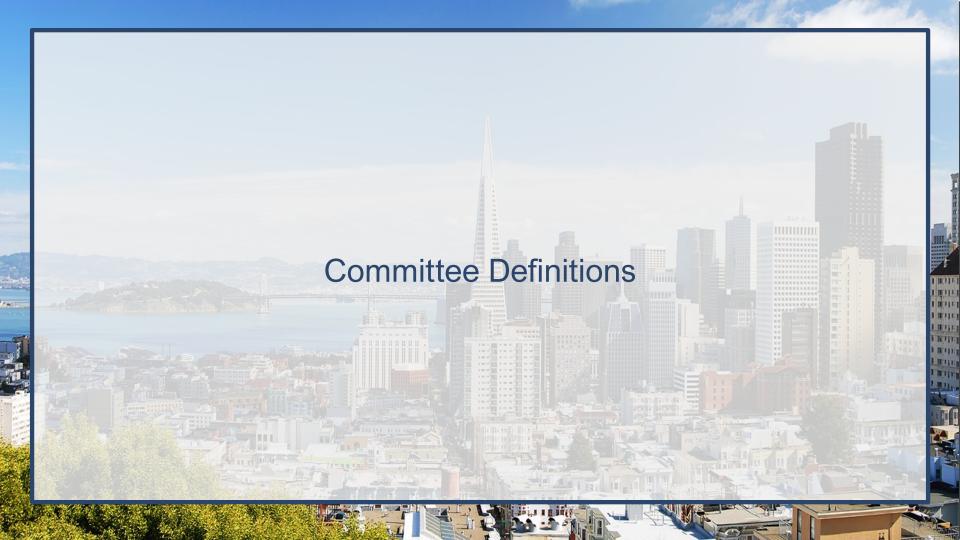
San Francisco voters established the Ethics Commission in 1993 to ensure that local ethics, campaign finance, and lobbying laws are strong and effective. The City's campaign finance laws are built on State laws, and over time the City has added significant provisions to the laws, including a limited public finance program for campaigns for the offices of Mayor and the Board of Supervisors.

The discussion of campaign finance rules in this training is necessarily general and not comprehensive. There may be aspects of the law that apply to you that are not covered in this training. Please consult the Campaign and Governmental Conduct Code, supporting regulations, Commission opinions and advice, and other guidance documents made available by the Commission. If you have specific questions regarding the rules or their application, please contact Ethics Commission staff at ethics.commission@sfgov.org or 415.252.3100, or read the law that may be cited. If there is a conflict between what is presented in this training and the law, the law governs.

What You Will Learn:

- Committee Definitions
- Treasurer Duties and Responsibilities
- Getting Started
- Reporting
- Advertising Disclaimer Requirements

- Contribution Rules
- After the Election
- Late Fees and Penalties
- Support & Resources



- Committee Definitions
- What is a Committee?
- Primarily Formed
 Committee
- General Purpose Committee
- Ballot Measure Committee
- Controlled Committee
- Sponsored Committee
- Political Party Committee
- Draft Committee

What is a Committee?

Committee means any person or combination of persons who directly or indirectly does any of the following:

- a) Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar year.
- b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year.
- c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees. A person or persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to California Government Code Regulation 18404.

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Primarily Formed Committee

A primarily formed committee is a committee which is formed or exists primarily to support or oppose any of the following:

- a) A single candidate
- b) A single measure
- A group of specific candidates being voted upon in the same city, county, or multicounty election.
- Two or more measures being voted upon in the same city, county, multicounty, or state election.

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General Purpose Committee

A general purpose committee is any committee which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5:

- A "state general purpose committee" is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.
- A "county general purpose committee" is a committee formed to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.
- A "city general purpose committee" is a committee to support or oppose candidates or measures voted on in only one city.

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Ballot Measure Committee

A "ballot measure committee" is any person or group receiving contributions of \$2,000 or more in a calendar year for the qualification, passage, or defeat of one or more ballot measures.

- A committee is a "primary-formed ballot measure committee" if it is created for the purpose of running the principal campaign for or against a single measure or two or more measures in the same election; or the committee makes more than 70% of its total contributions and expenditures to support or oppose a single measure or two or more measures being voted on in the same election.
- A committee is a "general purpose ballot measure committee" if it is formed to support or oppose ballot measures in more than one election or in more than one jurisdiction.
- A committee is a "candidate-controlled ballot measure committee" if a candidate (or his or her representative) has significant influence over the actions or decisions of the committee.
- Certain mutlipurpose organizations (e.g., nonprofits) may qualify as a ballot measure committee.

Cal. Gov't Code §§ 82027.5, 82047.5, 84107 and 84222; Cal. Code Regs. §§ 18227.5, 18247.5 and 18521.5.

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Controlled Ballot Measure and General Purpose Committee

A "controlled committee" is a committee that is controlled directly or indirectly by a candidate or that acts jointly with a candidate controlled committee in connection with the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

Controlled committees:

- must include the name of the controlling candidate in the name of the committee;
- may be subject to contribution prohibitions imposed on the controlling candidate;
- may not make expenditures to support or oppose the controlling candidate or any other candidate for elective office;
- may require a disclaimer statement and reporting obligation for expenditures that refer to or identify a candidate.

Cal. Gov't Code §§ 82013, and 82016; Cal. Code Regs. §§ 18217 and 18521.5. S.F. C&GC Code §§ 1.126 and 1.127.

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Sponsored Committee

A person sponsors a committee if any of the following apply:

- The committee receives 80 percent or more of its contributions from the person or its members, officers, employees or shareholders;
- The person collects contributions for the committee by use of payroll deductions or dues from its members, officers or employees;
- The person, alone or in coordination with other organizations, provides all or nearly all of the administrative services for the committee; or
- The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures.

Note: A sponsored committee must include the sponsor's name in the committee name.

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Political Party Committee

Political party committees (including country central committees) are subject to certain additional and different rules than other general purpose committees.

- A political party committee is considered a state general purpose committee under the Political Reform Act (PRA).
- A political party committee is defined as the state central county committee or the country central committee of an organization that meets the requirements as a political party.
- A local party club is not considered a political party, but will often qualify as a general purpose committee under the PRA if it receives \$2,000 or more in a calendar year to be used for political purposes, such as making contributions to candidates or ballot measure committees, making independent expenditures to support or oppose candidates or ballot measures, or doing partisan voter registration or "get out the vote" drives.

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Draft Committee

Draft Committee

Any person, group of persons, or entity that either received contributions of \$1,000 or more or makes expenditures of \$1,000 or more in order to support the qualification or election of an identifiable person to City elective office who has not qualified as a candidate is considered a draft committee.

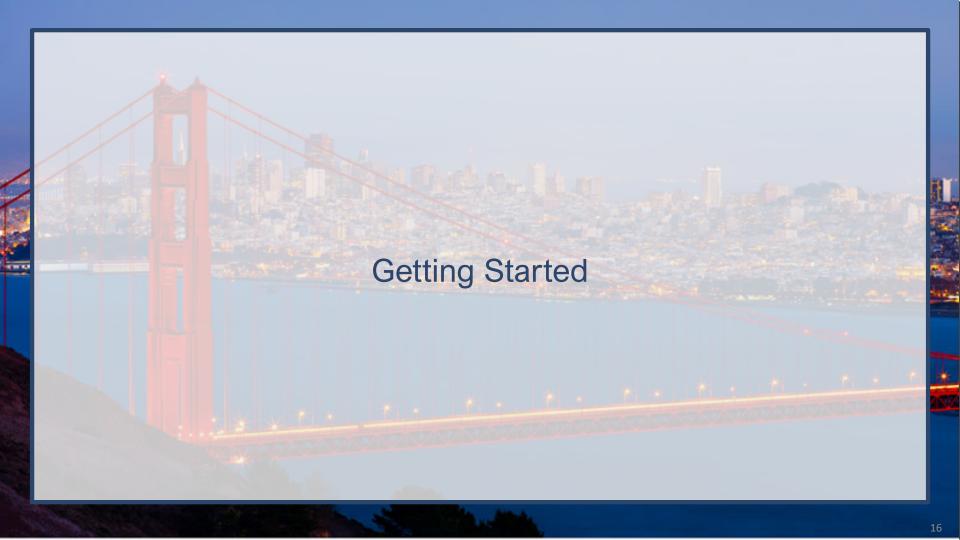
Draft committees must file campaign statements and reports required by either state or local law for a primarily formed committee supporting a candidate for City elective office.



Treasurer Duties and Responsibilities

Treasurer Duties and Responsibilities

- Every committee must have a treasurer
 - Treasurer must complete required training, unless such training was completed within the last 12 months.
- Establish a recordkeeping system
 - Ensure that receipts and expenditures are recorded.
- Prepare campaign statements personally or carefully review campaign statements prepared by others.
- Verify and sign campaign statements.
- Submit statements on time to avoid late fees.
- Comply with applicable laws treasurers are personally liable for campaign finance violations of their committees.



- Getting Started
- Establish a Committee
- Training
- Electronic Filing

Establish a Committee

Any person or combination of persons of persons who receives contributions totaling \$2,000 or more in a calendar year must establish a committee.

- File a Statement of Organization (Form 410) within 10 days of reaching the qualifying threshold, or within 24 hours if any of the following apply:
 - the \$2,000 threshold is reached during the 16 days prior to an election; or
 - if the committee qualifies within the 90 days prior to an election and the committee makes independent expenditures of \$1,000 or more to support or oppose a candidate in that election.
- File *original* with the Secretary of State (SOS) by mail with a \$50 filing fee, and file a *copy* with the San Francisco Ethics Commission.
- Pay \$50 fee to SOS by January 15 of each year until committee has terminated.

- Getting Started
- Establish a Committee
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Mandatory Training for Committee Treasurers

Every committee treasurer must complete a training administered by the San Francisco Ethics Commission prior to the election. An individual who serves as the treasurer for more than one committee is not required to complete a training if that individual has completed such a training within the previous 12 months.

- Training is available online on the Commission' website.
- File "Certification of Training" (<u>Form SFEC-107</u>) with the Ethics Commission 30 days before the election.

- Getting Started
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Establish an Electronic Filing Account

Committees must file campaign statements and other forms (depending on the committee's activity) in electronic format using the Ethics Commission's free NetFile system or other approved third-party software.

- Complete a Signature Verification Card (<u>Form SFEC-112a</u>)
 - File with Ethics Commission by mail or in-person
 - Form must be notarized if submitted through the mail
 - Notarization is not required if done in-person at Ethics Commission office located at 25 Van Ness, Suite 220
 - A valid government I.D. must be presented
- Set-up a NetFile User Account with Ethics Commission
 - All committees must file their campaign statements electronically with the Ethics Commission
 - Initiate NetFile <u>registration</u>
 - Complete (Form SFEC-112b)
 - Must use approved .CAL format to file electronic statements



- Reporting
- Where to File
- CampaignStatements
- 24-hour Reports
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Filing Jurisdiction

A recipient committee that makes more than 70% of its contributions and expenditures to support or oppose candidates or measures or other City committees in San Francisco is a **Local San Francisco Committee** and will file campaign statements and other forms with the San Francisco Ethics Commission.

A major donor committee that makes contributions and expenditures to support or oppose state candidates or state measures is a **State Committee** and will file campaign statements with the Secretary of State's office.

**All political party committees, including county central committees are State committees.

Committees must assess filing jurisdiction quarterly at the end of March, June, September and December. If jurisdictional status changes, committees must file an amended Form 410 to reflect the status change, and file statements for the remainder of the calendar year with <u>both</u> the new and former jurisdictions.

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Campaign Statements

All San Francisco committees must file FPPC campaign statements *electronically* with the Ethics Commission. A committee is required to continue filing statements, regardless of the committee's level of financial activity, until the committee files required termination statements.

- > FPPC Form 460: Recipient Committee Campaign Statement
 - Primary campaign statement used by recipient committees to report contributions and expenditures.
 - Committees must electronically file semi-annual campaign statements and possibly pre-election statements in the months leading up to an election (refer to applicable <u>local filing schedule</u>).
 - Ballot measure committees must also file reports on April 30 and September 30 during any year that a measure, supported or opposed by the committee, is not on the ballot.
 - See "Committee Reporting Requirements" for additional information.

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Late Reporting Period

The "Late Reporting Period" represents the 90-day period preceding an election, including the date of the election in which a committee supports or opposes a candidate or ballot measure.

During this period, special reports may be required within 24-hours of making late independent expenditures, late contributions, electioneering communications or member communications.

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Late Contribution Report

"Late Contributions" are contributions that total in the aggregate \$1,000 or more that are <u>made or received</u> to support or oppose a candidate or ballot measure in the 90 days before or on the date of an election.

- > FPPC Form 497: 24-hour Contribution Report
 - File within 24 hours of:
 - making contributions of \$1,000 or more (in the aggregate) to a candidate or a primarily formed committee to support or oppose a candidate or ballot measure during the <u>late reporting</u> <u>period</u>; or
 - if you are a primarily formed committee, receiving contributions of \$1,000 or more (in the aggregate) from a candidate or primarily formed committee to support or oppose a candidate or ballot measure during the <u>late reporting period</u>.
 - Must be filed electronically with the Ethics Commission.
 - See "Committee Reporting Requirements" for additional information.

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Late Independent Expenditures

"Late Independent Expenditure" is an expenditure that totals in the aggregate \$1,000 or more and is made in connection with a communication (e.g., mailing, advertisement, or billboard) that expressly advocates the election or defeat of a clearly identified candidate or ballot measure. Independent expenditures are not made in coordination with the affected candidate or ballot measure.

- > FPPC Form 496: 24-hour Independent Expenditure Report
 - File within 24 hours of distributing independent expenditures totaling \$1,000 or more during the <u>late reporting period</u>.
 - Must be filed electronically with the Ethics Commission and must include a copy of the communication at the time of filing.
 - See "Committee Reporting Requirements" for additional information.

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Notice of Circulating Petition

If a committee is a proponent of any petition that is circulated to qualify a measure for the ballot, the committee must notify the Ethics Commission.

- > SFEC Form 113: Notice to Circulate Petition
 - File within one business day of circulating the petition.
 - Must be filed by email or facsimile.
 - See "Committee Reporting Requirements" for additional information.
- Committees raising or spending funds to support or oppose a measure during the circulation of the measure must file supplemental <u>campaign</u> <u>statements</u> with the Ethics Commission. See "Disclosure During Signature Gathering Periods" section on the "<u>Committee Reporting Requirements</u>" webpage for more information.

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Electioneering Communications

An "Electioneering Communication" is any communication (e.g., mailing) that refers to a clearly identified City candidate and is distributed within the 90 days prior to an election that the candidate will appear on the ballot. To qualify as an electioneering communication, the communication must be sent or made available to 500 or more individuals who are registered to vote or eligible to register to vote for the City candidate identified in the communication. There is a presumption that any radio broadcast, television ad, billboard, or printed advertisement is distributed to 500 or more individuals.

> Form SFEC-162: Electioneering Communication Report

- File within 24 hours of distributing electioneering communications totaling \$1,000 or more during the <u>late reporting period</u>.
- Must be filed electronically with the Ethics Commission and must include a copy of the communication at the time of filing.
- See "Committee Reporting Requirements" for additional information.

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Member Communications

A "Member Communication" is any communication that supports or opposes a City candidate or City ballot measure, published, disseminated or communicated during the 90 days prior to the election *only* to an organization's members, employees or shareholders, or to the families of the organization's members, employees or shareholders. General public advertising such as billboards and newspaper advertisements is excluded from this definition.

- > Form SFEC-163: Member Communication Report
 - File within 24 hours of distributing member communications totaling \$1,000 or more during the <u>late reporting period</u>.
 - Must be filed electronically with the Ethics Commission and must include a copy of the communication at the time of filing.
 - See "Committee Reporting Requirements" for additional information.

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Independent Expenditure Mass Mailings (Outside of the 90-day Reporting Period)

An "Independent expenditure mass mailing" is 200 or more substantially similar pieces of mail that advocates for or against one or more City candidates. Independent expenditures and are not made in coordination with the affected candidate.

- Form SFEC-161: Itemized Disclosure Statement for Mass Mailings
 - File within 5 working days after the date of the mailing.
 - Must be filed electronically with the Ethics Commission and must include a copy of the communication at the time of filing.
 - See "Committee Reporting Requirements" for additional information.

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Paid Spokesperson Report

Required when a committee makes expenditures totaling \$5,000 or more to an individual ("spokesperson") for either of the following:

- For his/her appearance in one or more of the following media: print, television, radio broadcast, or television message; or
- to support or oppose the qualification, passage or defeat of a ballot measure.

> FPPC Form 511: Paid Spokesperson Report

- File within 10 days of the date the payment totaling \$5,000 or more is made or the date the services are received, whichever is earlier.
- See "Committee Reporting Requirements" for additional information.

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Behested Contributions

Any ballot measure committee or committee making independent expenditures that receives contributions totaling \$5,000 or more from a single person or entity in a single calendar year at the behest of a City elective officer must disclose information about behested contributions, including the name of the officer who solicited the contributions.

- Form SFEC-114.5: Behested Contributions Received by Certain Committees
 - File no later than the deadline to file the semi-annual or pre-election statement that must report the contribution that makes the cumulative total \$5,000 or more.
 - See "File SFEC Form 114.5" for additional information.

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Contributions from Business Entities

Any committee required to file campaign statements with the Ethics Commission must disclose certain additional information about any contribution(s) that, in the aggregate, total \$10,000 or more from a single business entity in a single election cycle.

- > Form SFEC-124: Contributions Made by Business Entities
 - File no late than the deadline to file the semi-annual or pre-election statement that must report the contribution that makes the cumulative total \$10,000 or more.
 - See "File SFEC Form 124" for additional information.

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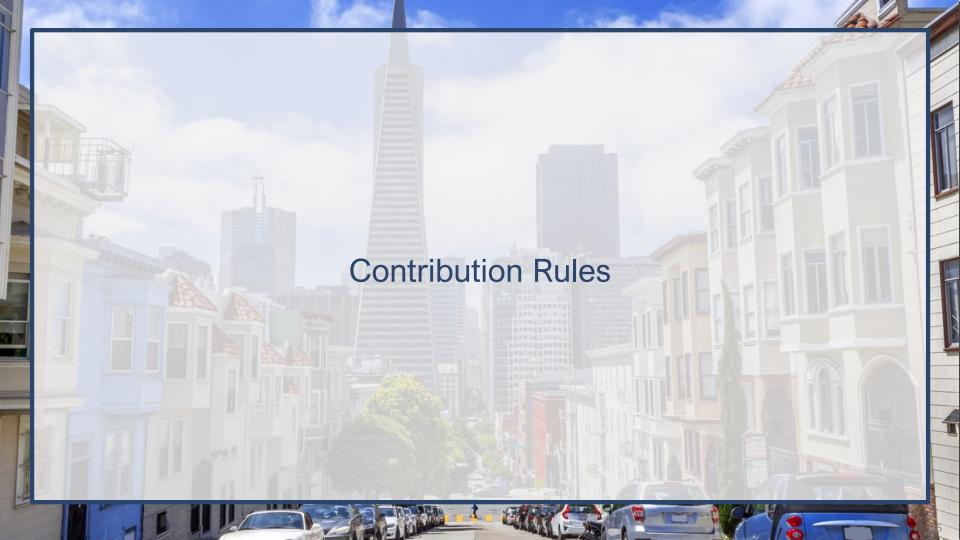
- Duty to amend and supplement committees have a duty to timely amend and/or supplement any incorrect or changed information.
- ➤ Committee changes amend Form 410 if you make a change to your committee name, type of committee, treasurer, or any contact information within 10 days of any change, or within 24 hours during the last 16 days before the election.
- ➤ Committees must continue to e-file semi-annual campaign statements with the Ethics Commission, irrespective of level of financial activity, until the committee has terminated (see details on slide 42).
- File accurate and timely reports to avoid late fees and penalties.
- Keep complete and organized records committees are required to maintain records for 4 years to substantiate their campaign reporting.
- See audits page for guidelines for organizing records.



Advertising
Disclaimer
Requirements

Disclaimers and Reporting Requirements for Campaign Communications

- > State and local law impose <u>disclaimer requirements</u> on campaign advertising including mailers, radio, television, newspaper ads, telephone calls, social media ads, and text messages.
- Guidelines pertaining to political advertising disclaimers by City candidate committees, are available at: <u>sfethics.com</u>.



- Contribution Rules
- ContributorInformationRequirements
- Receipt of Contributions
- Notice to Contributors

Contributor Information Requirements

- A committee may not deposit a contribution of \$100 or more, unless it has the contributor's:
 - Full name, street address (P.O. Boxes not acceptable), amount of contribution, date contribution received, occupation and employer information, or name of business for self-employed individuals.
 - See example contributor card on the Commission's website.
- > For contributions over \$25, you need:
 - Contributor name, street address (P.O. Boxes not acceptable), amount of contribution, date contribution received.
- Contributions for which the committee does not have the required information must be returned within 60-days of receipt, or forfeited to Ethics Commission for deposit in the City's general fund.

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Receipt of Contributions

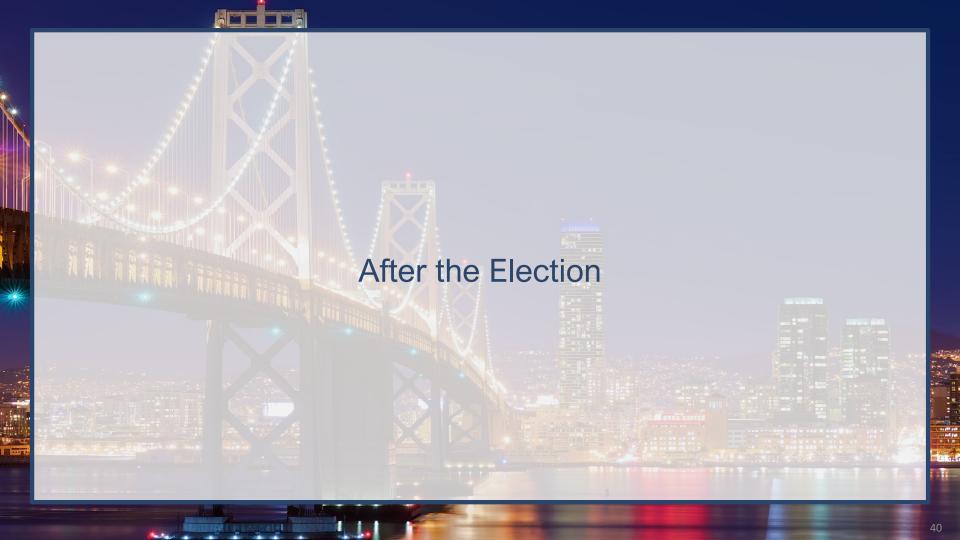
- A contribution will not be considered received if:
 - It is not cashed, negotiated or deposited;
 - It is returned to the donor by the closing date of the campaign statement on which the contribution would otherwise be reported.
 - Contributions received during the 90 days prior to an election, must be returned within 24 hours of receipt.
 - Cash contributions must be refunded within 72 hours of receipt.

- Contribution Rules
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Notice to Contributors of \geq \$5,000

- Committees that receive contributions totaling \$5,000 or more from a contributor in a calendar year must:
 - Provide notice to the contributor (within two weeks of receiving the contribution that makes the cumulative total \$5,000 or more) that the contributor may have reporting obligations.
 - The notice should include a reference to the filing requirements for multipurpose organizations.
- Committees that receive contributions totaling \$10,000 or more from a contributor during the 90 days before an election must:
 - Provide notice to the contributor (within one week of receiving the contribution) that the contributor may have reporting obligations.
 - The notice should include a reference to the filing requirements for major donors.

^{**}The notification requirements listed on this slide are not required for contributions received from recipient committees.



> AFTER THE ELECTION

- Surplus Funds
- Termination

Surplus Funds

- Surplus funds held by a committee Primarily Formed to support or oppose a measure:
 - Funds remaining in the campaign account at the end of the postelection reporting period following the election at which the measure appeared on the ballot are surplus funds and must be either:
 - Returned to contributors (last in, first out basis);
 - Donated to a charitable organization or to the City of San Francisco; or
 - Used to pay unpaid bills associated with the committee, including unpaid debts or accrued, bookkeeping, legal fees, preparation of campaign statements and audits.
- Funds held by a committee other than a candidate committee or a committee primarily formed to support or oppose a measure are not subject to S.F. C&GC Code Section 1.122.

> AFTER THE ELECTION

- Surplus Funds
- Termination

Termination

- Committee may terminate their committees after it has:
 - ceased receiving contributions and making expenditures;
 - does not anticipate receiving contributions or making expenditures in the future;
 - eliminated or has declared that is has no intention or ability to discharge all of its debts, loans received and other obligations;
 - no surplus funds; and
 - filed all required campaign statements disclosing all reportable transactions.
 - **Closure of bank account is recommended, but not required.
- To terminate, you must do the following:
 - File <u>FPPC Form 410</u>, check the "Termination" box and add the "Date of Termination."
 - File original with Secretary of State and one copy with the Ethics Commission.
 - Electronically file <u>FPPC Form 460</u> termination statement with the Ethics Commission.

Cal. Gov't Code § 84214; Cal. Code Regs. § 18404.



Late Fees and Penalties

Treasurers May Be Held Personally Liable

- Late Filing Fees:
 - \$10 per day for paper filings
 - \$25 per day for electronic filings
- Penalties:
 - Failure to file required and accurate campaign reports may be subject to civil, criminal and administrative penalties of up to \$5,000 per violation and/or 6 months imprisonment.



Support & Resources

Resources

Advertisement Disclaimers

Political Reform Act

FPPC Campaign Disclosure Manuals

Contributor Guide

NetFile User Guide

Example Contributor Card

<u>Creating A New Netfile User Account Instructions</u>

Due Diligence Efforts by Committees

Where to File Campaign Statements

Regulations Promulgated by the FPPC

<u>Campaign Finance Training for Candidates for City Elective</u>
Office and their Treasurers

San Francisco Department of Elections

Information County Central Committees

<u>Campaign and Governmental Conduct Code section 1.100 et seq.</u>

Request a Campaign Filer Telephone Training Session*

Regulations to Campaign Finance Reform Ordinance (CFRO)

*Recommended for new treasurers.

Support & Resources

Support & Resources

San Francisco Ethics Commission www.sfethics.org
25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Ethics.commission@sfgov.org
(415) 252-3100

Fair Political Practices Commission (FPPC)

www.fppc.ca.gov
advice@fppc.ca.gov

1-866-ASK-FPPC

San Francisco Department of Elections

www.sfelections.org

1 Dr. Carlton B. Goodlett Place
City Hall, Room 48
San Francisco, CA 94102

SFVote@sfgov.org

(415) 554-4375

Secretary of State – Political Reform Division

<u>www.sos.ca.gov</u>
(916) 653-6224